

**FRAUD INVESTIGATIONS AND PROGRAM INTEGRITY
COUNTY OF SAN DIEGO PLAN SUBMITTED TO THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
Updated Plan: January 8, 2010**

Background

The County of San Diego (County) has a long history of working collaboratively with the District Attorney to address fraud in the In-Home Supportive Services (IHSS) program dating back to 1994. In-Home Supportive Services social workers identify potential fraud and make fraud referrals to the District Attorney's Office. Investigators from the District Attorney's office complete field investigations, review case files and timesheets, and, if fraud has been found and substantiated, they then move towards prosecution. Enclosure D provides the numbers of referrals and convictions for the past five years.

In addition to formal fraud investigations, in 1995 the County initiated a Quality Assurance/Quality Control (QA/QC) program for IHSS. The purpose of the QA/QC program is to assure compliance with program regulations, ensure accuracy, and maintain program integrity. Furthermore, QA/QC staff conduct reviews that target and track overpayments and underpayments, and review for external and internal fraud indicators. With the passage of SB 1104 in 2004, the State was required to develop a Quality Assurance program to be utilized state-wide; this program was based upon the successful QA/QC program developed in San Diego.

Because of the County's strong program integrity efforts we were approached by the State to complete the first error rate study in California for IHSS recipients. These studies are now standard practice for the County's QA/QC program and include:

- Identification and review of cases where IHSS recipients are also paid providers
- Identification of IHSS recipients whose status has changed to now being hospitalized or in nursing homes
- Paramedical Services to ensure that the appropriate time has been assessed
- Protective Supervision to ensure that the need for 24 hour care is clearly documented (for clients with dementia and developmental disabilities)
- Identification and review of providers whose mailing address is outside of the County.

During the past seven months, pursuant to a directive from the County of San Diego Board of Supervisors, staff has been reviewing the IHSS program to identify meaningful proposals for reform. The Board expressed concerns that administrative flaws exist within the program, including an inability to confirm the accuracy of the IHSS program timecards submitted for payment, validating the hours caregivers have worked, and verification that services have actually been provided. As part of this effort, County staff reached out to numerous stakeholders to identify areas of concern that would merit reform. The need for provider oversight was consistently brought forward, with participants identifying the need to ensure IHSS recipients were receiving services necessary to remain safely in their home.

With the passage of the IHSS legislation this past summer (ABX4 19), counties are now able to include the use of unannounced home visits as part of their Quality Assurance program to verify receipt of services. This change now provides an opportunity for the County to initiate additional oversight activities to address the identified concerns communicated by the San Diego County Board of Supervisors and local stakeholders.

Overview of Program Design

Relevant Background

A recent lawsuit (*Sanchez v. County of San Diego*), which was decided by a federal appeals court, requires caution in the design of the new provider oversight program. In the *Sanchez* case, the court considered the constitutionality of the County's "Project 100%" program. Under Project 100%, all applicants for welfare benefits received a home visit from an investigator employed by the District Attorney. The visit included a voluntary "walk through" to verify eligibility information. Findings from the home visit were then turned over to eligibility technicians who compared that information with information supplied by the applicant. The plaintiffs argued that these visits were violations of the Fourth Amendment's protection against unreasonable searches and seizures. San Diego County argued that the home visits did not violate the Fourth Amendment because the home visits did not result in criminal prosecution. If adverse information were discovered during a home visit, the application for benefits would be denied. The appellate court accepted the County's position. However, the law is clear that where potential criminal prosecution is involved, a government employee can only enter a home with a valid warrant or consent.

This *Sanchez* lawsuit and its ramifications has helped to shape the current design of this new pilot Program Integrity proposal. This program's focus is to ensure that the recipient is receiving the appropriate benefits, by verifying the recipient's eligibility for services and to verify that the proper services are being delivered by the IHSS provider.

Program Design

Contingent upon approval of this Plan by the State, the County's Health and Human Services Agency (HHSA) will hire additional staff to implement this new pilot program. The new program will include unannounced home visits when the following conditions exist:

- Adult Protective Services staff suspect that appropriate care is not being provided to the recipient
- The recipient has limited support systems in place
- Due to the condition of the recipient, there are questions as to whether services are actually being provided
- Recipient lives alone and has a high need for service and is isolated
- Recipient appears unable to manage the responsibility of hiring and supervising the provider, as identified by Public Authority staff or IHSS social workers
- Recipient has multiple changes in providers
- Applicants whose request for services appears questionable in terms of stated need

- Review of automated matches with case circumstances reveals a potential discrepancy that requires clarification
- Other circumstances that raise concern, for example, when an elderly and ill family member is serving as the provider for another member in the family

Referrals will also be generated by interested parties who believe an unannounced service confirmation visit is warranted.

Both recipients and providers will be informed about the possibility of unannounced home visits when they first sign up to receive or provide IHSS and will be educated about the purpose of the visits – to establish that the recipients' authorized services are being delivered and that the needs of the recipient to remain safely in the home are being met.

When visited by a County oversight staff member, the recipient will be given an opportunity to refuse the visit should they feel uncomfortable with the request.

The County will work with the State and with County Counsel to clearly identify the program rule infractions (that may be discovered via the home visit process) that will allow administrative termination of both recipients and providers from the IHSS program, as now allowed by State law (ABX4 19, Sec. 9). County staff will document any program infractions discovered during the home visit process that could then lead to either full elimination of services or identification of an overpayment. If the provider currently in place is not able to perform the necessary services, the recipient will be provided assistance in accessing a new provider via the Public Authority registry.

Program Integrity staff will also review assessed services and compare them to what is actually being performed. Overpayments and underpayments will be promptly calculated and will no longer wait until the next annually scheduled social worker reassessment to be identified.

Staffing Plan

The Program Integrity staff will be housed with the Health and Human Services Agency Strategic Planning & Operational Support (SPOS) division in the Fraud & Integrity section. The Fraud & Integrity section is currently responsible for oversight of other welfare programs, including CalWORKS, Food Stamps and General Relief. Staff in this section conduct quality assurance reviews of cases identified through automated matches and through random sampling for program integrity reviews. Staff process overpayments and coordinate actions with both Department of Health Care Services and District Attorney Public Assistance Fraud Investigators on issues that may involve criminal prosecution. Staff will receive training on the IHSS program and become well-versed in the assessment and eligibility determination process. Nine positions will be added; eight at the journey level and one at the supervisory level. The oversight staff will work closely with IHSS Quality Assurance social workers to ensure that no overlap of duties occurs.

Mechanism for Tracking/Reporting

Oversight staff will also have the responsibility for maintaining the database of referrals, which will include cases assigned for fraud investigation by the District Attorney (DA) and/or the Department of Health Care Services (DHCS). Attachment A documents the various investigative entities either currently working or proposed for the San Diego County IHSS fraud and oversight functions.

The County is currently researching the cost of modifying existing systems or acquiring/creating an electronic fraud tracking and referral database. This system will allow for tracking of key data elements for the County and State and determine the activities that are most effective in maintaining program integrity and preventing fraud. The system will allow for the County, DA, and DHCS staff to view and enter data relevant to home fraud referrals, investigations, and home visit results and will generate management reports. In the meantime, the County will continue to capture home visit information, and fraud referral and prosecution data utilizing an 'Excel' spreadsheet.

District Attorney's Role and Fraud Prevention Efforts

One dedicated staff position from the District Attorney's office will be assigned to work directly with HHSA and will be responsible for providing fraud prevention training for all IHSS staff, including those working in the new program integrity unit. Training topics to be covered by the District Attorney and IHSS staff will include:

- How to identify fraud, including identification of potential fraud indicators
- How to prevent fraud
- How to document findings within the case file
- How to utilize CMIPS and CMIPS II reports to uncover/identify fraud
- How to identify and prevent overpayments and underpayments
- Administrative remedies to address program problems

We anticipate, that as a result of increased staff fraud training, referrals for suspected fraud to the District Attorney and DHCS will increase significantly. The new staff member in the DA's office will assist with managing the increasing influx of referrals.

Other Efforts Aimed at Reducing IHSS Fraud

As part of the IHSS Reform effort, county staff will be engaged in a number of other activities that will also assist with fraud prevention. These include:

- Training and support of IHSS social workers in reviewing automated reports to determine the potential for fraud or administrative action; a desk aid has been created and shared with staff to enhance this activity
- Regular coordination meetings scheduled between IHSS, SPOS Fraud & Integrity section, the District Attorney's office and the Department of Health Care Services
- Requiring recipients to provide proof of identity at home visits

- Preparing and sharing clear expectations with all IHSS staff about their responsibility to identify and report fraud (on-line training is planned in addition to the training by the District Attorney's office)
- Utilization of CMIPS to generate custom reports to target fraud (for example, a report identifying whether multiple paychecks are going to one address)
- Initiating a pilot program utilizing specific social workers to perform eligibility determinations for new intakes to determine whether this results in fewer and more appropriate case grantings
- Providing enhanced training to Call Center staff who take the initial case referrals to ensure that all appropriate questions are asked prior to taking a referral
- Initiating additional targeted reviews by Quality Assurance to address potential fraud, including review of closed cases to verify that no unauthorized payments have been made
- Increasing the number of visits made to recipients whose condition is expected to change in order to make necessary service modifications and prevent overpayments/underpayments

As noted, County staff will enhance and improve their review of reports generated by CMIPS to identify situations that may be potentially problematic, for example, providers working more than 300 hours or clients receiving 24 hour supervision whose provider lives some distance away, and recipients who have died but whose providers have continued to submit hours for service. Staff will also identify other potential fraud situations that they discover during the initial intake process or under other circumstances. These types of referrals will be reported immediately to the District Attorney's office and/or to the Department of Health Care Services for fraud investigation. Cases that show the potential for fraud will not generate a home visit by the oversight team.

There is also a dedicated hotline for fraud referrals which is available ____ M-F. Anyone can contact the line to report potential fraud. San Diego County will update the District Attorney's website to specifically identify the hotline number to report potential IHSS fraud. These referrals are channeled to the District Attorney for follow-up.

Public Authority Provider Enrollment

As an additional fraud prevention strategy and to implement the new anti-fraud components provided in the State Budget Act of 2009, on November 3, 2009, the Public Authority Governing Body initiated the formation of a one-stop shop for all provider enrollment activities. As of December 1, the Public Authority is requiring all new and current providers to come, in-person, to a central location where they must present identification, view an orientation or orientation materials, sign required forms and receive a criminal background screen. This process is also coordinated with the local labor union, United Domestic Workers of America, who provides staff members to share information for providers on-site.. By offering and coordinating all necessary activities in one place, and requiring all providers to comply, San Diego County anticipates that only those providers who can meet the stringent requirements will apply to provide or continue providing IHSS.

Public Authority staff now works very closely with HHSA to jointly administer this complex program. Regular monthly coordination meetings are held by IHSS and Authority program administrators and these will continue and focus on enhancing the implementation of the new local and State anti-fraud requirements.

Fraud Prevention Outreach to Recipients and Providers

Public Authority and County staff have already begun mailing materials to both recipients and providers alerting them to the new requirements in the IHSS program. As part of this process, additional materials will be prepared and shared that educate both entities about IHSS fraud and notify them of the penalties for fraud as well as how to prevent and report fraud. Staff will work with a current media and marketing consultant to design an effective anti-fraud message which will be shared widely within the aging and disability local San Diego networks as well as with applicants, recipients and providers.

County Assurance of Start Date

If the County of San Diego is awarded the funding for the new efforts to combat fraud and enhance program integrity, the County will guarantee that these new efforts will commence within 60 days of receipt of funding.

Partnerships with the California Department of Health Care Services

The California Department of Health Care Services has begun to conduct investigations in the IHSS program. The County's QA/QC program has provided assistance to the DHCS investigators to help interpret information from the statewide IHSS computer system, CMIPS, for their investigations on IHSS recipients and providers. However, the Department has not been able to specify the level of involvement they will have in investigating fraud in San Diego County as they have not received clear direction. As of this date, they have reviewed the list of cases involving providers working 300+ hours/month and have reviewed a listing of hospitalized recipients to determine whether these individuals also had IHSS hours paid during the same time period. All new fraud referrals continue to be sent and processed by the District Attorney's office. In meetings with DHCS Investigations, District Attorney, IHSS and SPOS, DHCS suggested that San Diego County continue its current fraud investigation activities including those with our District Attorney.

Identification of IHSS Overpayments/Underpayments

County staff will continue to identify and process overpayments/underpayments. Identified underpayments will trigger a supplemental payment to reimburse the difference. Currently, referrals for overpayments, as well as criminal overpayments, are routinely referred to the County's Revenue & Recovery Office. This process will continue and will include a review process to ensure that the overpayments/underpayments are assessed and calculated following the California Department of Social Services (CDSS) and DHCS regulations. Cases that contain the potential for overpayments, as identified by the HHSA Oversight Team as well as by IHSS Quality Assurance and social workers, will also be referred to Revenue and Recovery for collection purposes. As noted, the Provider Oversight Team will be instrumental in assisting with early identification of overpayments/underpayments so that necessary changes can be made

to prevent increasing costs. Additionally, with the advent of CMIPS II, and as a pilot county, San Diego will be among the first to utilize the new feature allowing for automatic withholdings of overpayments from providers' paychecks.

Fraud Referrals/Outcomes

The County will continue meeting with DHCS and the DA to establish a clear protocol for investigation and prosecution of IHSS fraud referrals and to develop a matrix indicating how each entity (HHSA, DHCS and DA) will work together. The goal of these meetings will be to clearly identify the types of cases that will be referred to each group.

The County will continue tracking the number of fraud cases referred to the DA (and DHCS, depending upon their role), and will document the number of convictions and the amount recovered. HHSA staff will also document the recipients and providers they are visiting as part of the oversight program to ensure that there is no duplication or overlap between their review of service delivery and any activity being performed by one of the investigative agencies.

The County will also continue its practice of referring convicted providers to the State's Medical Suspended and Ineligible listing, a practice that has been in effect in San Diego throughout this decade. Additionally, staff will review all new providers against the Suspended and Ineligible listing to ensure that no individual who has committed fraud against a governmental program is permitted to work in San Diego County.

Proposed Budget

The proposed budget has been completed and is attached. Highlights of the budget include costs for the DA position responsible for training and investigation of cases referred directly to their office, as well as costs for the nine oversight personnel and the preliminary estimate for modifying existing systems, acquisition of a commercial system or creating a new fraud database. Funding has also been identified for a consultant to assist with crafting an anti-fraud message for IHSS providers and recipients and to help develop a dissemination plan for this material.

Annual Outcomes Report

In order to meet the State's requirements, the County will provide an annual outcomes report, to include reporting on overpayments and underpayments, as well as referrals and outcome data, utilizing the data elements identified by the State in January 2010. This report will be submitted to the California Department of Social Services by August 1, 2010.

County of San Diego IHSS Fraud prevention Budget

Budget Section	
A. Personnel Costs (includes employee benefits)	\$ 878,343
B. Operating Expenses	57,540
C. Equipment Expenses	-
D. Travel/Per Diem and Training	3,370
E. Subcontracts and Consultants	30,000
F. Other Costs	210,000
G. Indirect Expenses	186,128
Total Expenses:	\$ 1,365,381

A. Personnel Costs (includes employee benefits)	
Title: Program Oversight Supervisor	FTE: 1.00
Salary: 61,589 Benefits: 35,660	\$ 97,249
Duties: Provides supervision to a unit of oversight workers whose primary role is to ensure that the IHSS recipient is receiving the appropriate benefits, by verifying the recipient's eligibility for services and to verify that the proper services are being delivered by the IHSS provider.	
Title: Program Oversight Worker	FTE: 8.00
Salary: 52,541 Benefits: 30,421	663,698
Duties: Provides program oversight to ensure that the IHSS recipient is receiving the appropriate benefits, by verifying the recipient's eligibility for services and to verify that the proper services are being delivered by the IHSS provider.	
Title: DA Public Investigator	FTE: 1.00
Salary: 73,373 Benefits: 44,023	117,396
Duties: Provides fraud training to IHSS social worker, quality assurance and program oversight staff and investigates fraud referrals from IHSS.	
Total Personnel Costs:	\$ 878,343

B. Operating Expenses	
Cell Phone: employee cell phones	3,328
Auto Maintenance: maintenance of county owned vehicles used by program	609
Auto Fuel: fuel for county owned vehicles used by program	161
Office Expense: various office supplies	3,480
Postage: postage used by program	22
Printing: copying and printing used by program	4,071
Spec Dept Exp: misc. program expenses	243
Minor Equipment: various equipment < \$500 each	49
Transportation: employee auto mileage reimbursement	8,757
Network Services: access to county network	19,017
Data Center: county email services	1,170
Application Services: computer program used by IHSS	4,075
Computing: desktop/laptop computers used by employees	12,556
Total Operating Expenses:	\$ 57,540

C. Equipment Expenses	
N/A	\$ -

D. Travel/Per Diem and Training	
Employee travel and training:	\$ 3,370

E. Subcontracts and Consultants	
Consultant contracts: media consultant to develop an anti-fraud message for IHSS recipients & prov	\$ 30,000

F. Other Costs	
Fraud database (one-time-only)	\$ 210,000

G. Indirect Expenses	
County + HHSA + AIS =	24.46%
	\$ 186,128